



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2004

Lieutenant William Ryan
Records Division
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2004-4751A

Dear Lt. Ryan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 208942.

The Pharr Police Department (the "department") received multiple requests for the 911 tapes and incident reports relating to a particular stabbing. In response to your requests for rulings, this office issued Open Records Letter Nos. 2004-3218 (2004), 2004-3696 (2004), and 2004-4751 (2004). In Open Records Letter Nos. 2004-3218 and 2004-3696, we concluded that the department must withhold the responsive 911 tapes and incident reports under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. In drafting Open Records Letter No. 2004-4751, this office found that the department failed to submit a copy of the incident reports as part of its request. Therefore, in accordance with section 552.302 of the Government Code, we concluded that the incident reports must be released. Furthermore, without the incident reports, this office could not verify the age of the offender. Accordingly, this office did not rule under the department's section 552.101 claim, but instead ruled under its section 552.108 claim.

We have re-examined the three rulings. Since this office previously ruled on the responsive information, we find that our conclusion in Open Records Letter No. 2004-4751 was erroneous. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, and that error resulted in an incorrect decision, we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application,

operation, and interpretation of this chapter). Thus, in accordance with Open Records Letter Nos. 2004-3218 and 2004-3696, the department must withhold the responsive 911 tapes and incident reports under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. *See* Open Records Decision No. 673 (2001) (establishing criteria for previous determinations); *see also* Gov't Code 552.301(a) (stating that governmental body may withhold information from disclosure without seeking decision from attorney general if attorney general has previously ruled on exact information). This decision serves as the correct ruling and is a substitute for the decision issued on June 10, 2004.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

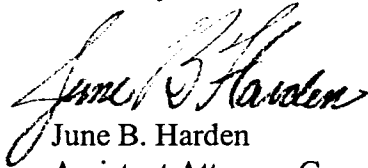
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be

sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/seg

Ref: ID# 208942

Enc: Submitted documents

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